

**Legislative Council Panel on Home Affairs
Meeting on 9 May 2003**

**The Support from Home Affairs Department in Resolving Disputes
Arising from the Formation of Owners' Corporations**

Purpose

This paper briefs Members on the support from Home Affairs Department (HAD) in the formation of owners' corporations (OCs), with particular reference to Tenants Purchase Scheme (TPS) estates.

Government's Policy

2. Building management aims primarily to provide owners and occupiers with a pleasant and comfortable living environment, and to maintain the common parts of buildings properly to ensure safety for owners and occupiers as well as the public. The Government strives to encourage and assist owners to take part in building management. Our policy objective is to give comprehensive and practical advice to owners and occupiers of buildings so that they are better-equipped to put into practice their primary responsibilities for building management, maintenance and safety.

Role of HAD

3. HAD plays the role of a facilitator in this aspect. First, we put in place a legal framework for owners to form their OCs under the Building Management Ordinance (BMO) (Cap. 344) to enable owners to manage their buildings collaboratively and effectively. We constantly keep in view the provisions of the BMO to ensure they are in line with the field developments. The BMO was last amended in 2000, following which a Subcommittee on the Review of the BMO was formed under this Panel to discuss further improvements to the legislation. The Administration will be consulting the parties concerned and the general public on the amendment proposals shortly and hopes to submit the composite bill to the Legislative Council in 2003-04. The amendment proposals being considered are aimed at facilitating OCs in their

performance of duties and exercise of powers, rationalizing the appointment procedures of a management committee and its members, and affording better protection for the interests of building owners.

4. Apart from providing a legal framework, HAD and our District Offices also provide supportive services, offer advice and organize training for the owners and occupiers of buildings. To enhance our provision of comprehensive services in building management, District Building Management Liaison Teams were set up in the 18 District Offices to provide outreach services and support for building owners. In addition, there are now four regional Building Management Resource Centres (BMRCs) across the territory to provide general information, services and advice for our clients. We also work with the professional organizations to provide free professional services and training. Owners and members of management committees may obtain free advice on various aspects of building management, including legal, accounting, surveying, engineering and management advice, from volunteer experts on duty at the BMRCs. To facilitate members of the public, three of the BMRCs have extended opening hours till 10:00 pm two days per week. We have also recently extended the opening hours of BMRC(Kowloon) from 10:00 am to 10:00 pm Monday to Friday and from 10:00 am to 6:30 pm on Saturday.

5. To encourage building owners to form OCs and facilitate them in the management of their buildings, the District Offices will :

- (a) visit private buildings in the respective districts to ascertain those considered feasible for OC formation and to introduce to owners the good practices of managing their buildings;
- (b) give guidelines and advice to owners on the procedures of OC formation and on the operation of OCs;
- (c) issue exemption certificates for those convenors to obtain a free copy of owners' records of the building concerned from the Land Registry for the purpose of convening meetings for OC formation;
- (d) attend owners' meetings on invitation and give advice to owners on

the meeting procedures as and when necessary;

- (e) organize training courses, seminars, talks and workshops on building management in order to provide training for members of management committees;
- (f) organize educational and publicity activities, including holding roving exhibitions on building management, producing a series of educational video tapes on building management, maintenance and insurance issues to promote proper and effective building management;
- (g) deal with enquiries and complaints relating to building management;
- (h) assist law-enforcement departments in building maintenance works and fire safety improvement; and
- (i) help resolve disputes among owners, OCs and property management companies.

6. There might be, from time to time, disputes among building owners during the formation and operation of OCs. Staff of District Offices will liaise with the parties concerned with a view to resolving the matters. Where legal issues are involved, the owners will be encouraged to seek independent legal advice from the duty lawyers at the BMRCs or from their own lawyers. That said, it remains to be the responsibility of owners to manage their own buildings given the private nature of their properties. While the District Offices will provide liaison and advisory services to the parties concerned, the Government cannot assume the role of building management on behalf of the owners. In the event that disputes arise, staff of District Offices will help liaise and mediate by taking a neutral and impartial stance, and help the owners to resolve building management issues as far as possible.

Tenants Purchase Scheme

7. The TPS was first launched in 1998 by the Hong Kong Housing Authority (HKHA) to promote affordable home ownership among public

housing tenants by assisting them to purchase their currently-rented flats. As at 31 March 2003, flats from 30 public housing estates were offered for sale in five phases and about 88 000 tenants became home owners.

8. TPS estates are no different from private properties where the responsibility of building management firmly rests with the building owners. The HKHA will manage TPS estates for 24 months or until formation of the OC, whichever is the earlier. In accordance with the Deed of Mutual Covenant, OC should be formed as soon as possible but not later than nine months of the first sale. The HKHA encourages TPS owners to take up the responsibilities of managing their own properties. The HKHA will assist TPS owners in forming OCs and making suitable arrangements for ongoing management. The respective District Offices will also offer the same assistance in the formation and operation of OCs of TPS estates as in other private buildings. After an OC has been formed, TPS owners can decide on how their estates are to be managed and monitor the use of management fees.

9. As at 31 March 2003, with the assistance of the HKHA and District Offices, 30 OCs were formed in all TPS estates. 12 of them are being managed by the Property Service Companies of HKHA and the remaining 18 by private property management companies employed by the OCs.

Conclusion

10. The Government attaches great importance to building management work. To achieve effective building management, owners are to cooperate and work in partnership through active participation in building management. On the other hand, HAD will continue to enhance communication with the owners to better gauge their needs with a view to improving our services to the public.

Home Affairs Department
May 2003